

Internal Revenue Service  
**memorandum**

date: MAY 1 1991

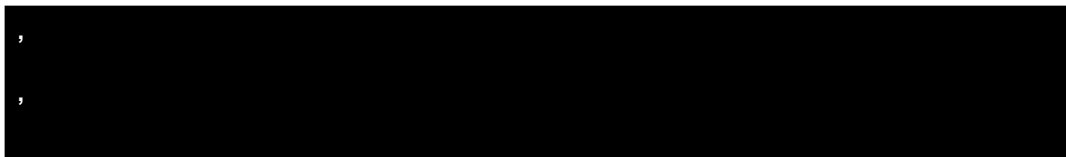
to: Director, Internal Revenue Service Center  
Kansas City, MO  
Attn: Entity Control

from: Technical Assistant  
Employee Benefits and Exempt Organizations

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subject: CC:EE:3 - TR-45-312-91  
Railroad Retirement Tax Act Status

Attached for your information and appropriate action is a copy of a letter dated February 21, 1991, from the Railroad Retirement Board concerning the status under the Railroad Retirement Act and the Railroad Unemployment Tax Act of the:



We have reviewed the opinion of the Railroad Retirement Board and, based solely upon the information submitted, concur in the conclusion reached by the Board that there is no need for an employer status determination in this case.

(Signed) Ronald L. Moore  
\_\_\_\_\_  
RONALD L. MOORE

Attachment: Copy of letter from  
the Railroad Retirement Board.

cc: Gary Kuper  
Internal Revenue Service  
200 South Hanley  
Clayton, MO 63105

008968

UNITED STATES OF AMERICA  
RAILROAD RETIREMENT BOARD

844 RUSH STREET  
CHICAGO, ILLINOIS 60611

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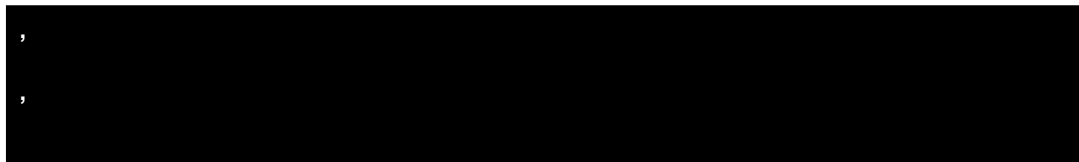
Assistant Chief Counsel  
(Employee Benefits and  
Exempt Organizations)  
Internal Revenue Service  
1111 Constitution Avenue., N.W.  
Washington, D.C. 20224

FEB 21 1991

Attention: CC:IND:1:3

Dear Sir:

In accordance with the coordination procedure established between the Internal Revenue Service and this Board, I am enclosing for your information a copy of an opinion in which I have expressed my determination as to the status under the Railroad Retirement and Railroad Unemployment Insurance Acts of the following:



Sincerely yours,

*Steven A. Bartholow*

Steven A. Bartholow  
Deputy General Counsel

Enclosure

FEB 04 1991

TO: Director of Research and Employment Accounts

FROM: Deputy General Counsel

SUBJECT: Employee Productivity Fund of the [REDACTED]  
[REDACTED]  
Employer Status

This is in response to your Form G-215 dated [REDACTED], requesting my opinion as to the status of the Employee Productivity Fund of the [REDACTED] under the Railroad Retirement and Railroad Unemployment Insurance Acts.

[REDACTED] (B.A. No. [REDACTED]), an employer under the Acts, and the [REDACTED] have entered into an agreement providing that for each yard tour of duty performed with a reduced crew the Railroad will pay a specified amount into an Employee Productivity Fund. The Fund is to be administered by the [REDACTED]. Payments to the Fund are made during the fiscal year and then payments to individual employees are made after the end of the fiscal year but before [REDACTED] of each year. Accordingly, unlike the situation described in Legal Opinion L-90-116, there is no third party is involved in administering the Fund and the payments involved are made by the covered railroad employer itself. There is therefore no need for an employer status determination in this case.


In regard to your inquiry as to what period Fund payments are creditable, it should be noted that it would not seem feasible to attribute payments to any specific time earlier than when paid. Accordingly, the payments should be creditable in the year paid. See section 211.11 of the Board's regulations and Legal Opinion L-90-116.

A Form G-215 giving effect to the foregoing is attached.



Steven A. Bartholow

Attachment

  
MCLitt:MCL:aam  
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